

ENTERED

April 24, 2019

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

RONALD DWAYNE WHITFIELD, *ET AL.*,

Plaintiff,

v.

STATE OF TEXAS, *ET AL.*,

Defendants.

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CIVIL ACTION NO. H-19-1420

ORDER OF DISMISSAL

Ronald Dwayne Whitfield, proceeding *pro se* and purportedly acting on behalf of his wife Brandy Brenay Charles-Whitfield and K.L.W., a child, files this lawsuit under section 1983 and 2241 seeking emergency relief to enjoin the final adoption of K.L.W. by unnamed third parties. The defendants have not been served with process and are not before the Court. The lawsuit is DISMISSED for the reasons that follow.

Ronald Dwayne Whitfield

Whitfield initially filed this lawsuit on the Court's miscellaneous docket under C.A. No. 19-mc-1111 (S.D. Tex.), and was granted leave to proceed *in forma pauperis*. The case was re-docketed under its current case number and assigned to the undersigned judge. The Court has reviewed the pleadings and public records of this and other courts and finds that Whitfield was improvidently granted leave to proceed *in forma pauperis*. Whitfield is a frivolous filer who may not proceed *in forma pauperis* in any civil lawsuit until he proves payment of all prior court sanctions imposed against him and obtains pre-authorization to file any intended litigation. A \$100.00 sanction was imposed against him

by the Fifth Circuit Court of Appeals in *In re Whitfield*, No. 97-00454 (5th Cir. Oct. 30, 1997), a \$200.00 sanction was imposed in *Whitfield v. Johnson*, No. 2:97-cv-3148 (S.D. Tex. Apr. 22, 1999), a \$750.00 sanction was imposed in *Whitfield v. Johnson*, No. 4:94-cv-2767 (S.D. Tex. March 5, 2011), and a \$200.00 sanction was imposed in *Whitfield v. Ott*, No. 4:00-cv-2367 (S.D. Tex. July 17, 2001), among others. Further, a \$100.00 sanction was imposed against him in *In re Whitfield*, No. 2:08-mc-21 (S.D. Tex. March 13, 2008), with an order barring him from filing any non-criminal actions without payment of the sanctions and pre-authorization to file. These sanctions remain unpaid.

The order granting leave to proceed *in forma pauperis* entered in C.A. No. 19-mc-1111 as Docket Entry No. 3 is VACATED AND WITHDRAWN. Whitfield is DENIED leave to proceed *in forma pauperis*. Whitfield's motion to lift the sanctions orders and/or for leave to proceed as a sanctioned litigant (Docket Entry No. 1) is DENIED, and his claims are DISMISSED WITHOUT PREJUDICE. Whitfield may refile his lawsuit upon payment of the \$400.00 filing fee and proof of payment of all outstanding sanctions.

Brandy Brenay Charles-Whitfield

Whitfield states that he and Charles-Whitfield were married in 2016 and remain married as of the date of filing. However, the parties' marital status provides no legal basis for Whitfield to represent Charles-Whitfield in this lawsuit or to file this lawsuit on her behalf. Under Federal Rule of Civil Procedure 11(a), "Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name – or by a party personally if the party is unrepresented." Perusal of Whitfield's

pleadings shows that Charles-Whitfield has not personally signed this lawsuit, and public records for the State Bar of Texas do not indicate that Whitfield is a licensed attorney. Consequently, all claims raised in this lawsuit on behalf of, or purportedly brought by, Charles-Whitfield are DISMISSED WITHOUT PREJUDICE for want of jurisdiction.

K.L.W.

K.L.W. is a one-year old child. Whitfield states that K.L.W. was born to Charles-Whitfield during the parties' marriage, and is presumed to be a child of the marriage. However, the parental rights of Whitfield and Charles-Whitfield as to K.L.W. were terminated by final decree on May 3, 2018. *See In the Interest of K.L.W., a Child*, No. 01-18-00485-CV (Tex. App. – Houston [1st Dist.] Dec. 5, 2018, pet. denied). The appeal of the termination order was dismissed as frivolous and the Texas Supreme Court denied review. *Id.*

Because their parental rights to K.L.W. were terminated by final decree, Whitfield and Charles-Whitfield have no standing to represent the legal interests of K.L.W. in this lawsuit. Nor, for the same reason, do they have standing to seek to enjoin any pending adoption proceedings regarding K.L.W. Consequently, all claims raised by Whitfield and/or Charles-Whitfield on behalf of K.L.W. are DISMISSED WITH PREJUDICE for want of jurisdiction.

Conclusion


For the reasons stated above, the Court ORDERS as follows:

1. The order granting Ronald Dwayne Whitfield and Brandy Brenay Charles-Whitfield leave to proceed *in forma pauperis* in C.A. No. 19-mc-1111 (S.D.

Tex.) is VACATED AND WITHDRAWN, and they are DENIED leave to proceed in forma pauperis.

2. Ronald Dwayne Whitfield's motion to lift the sanctions orders and/or for leave to proceed as a sanctioned litigant (Docket Entry No. 1) is DENIED.
3. All claims raised by Ronald Dwayne Whitfield are DISMISSED WITHOUT PREJUDICE.
4. All claims raised in this lawsuit on behalf of, or purportedly brought by, Brandy Brenay Charles-Whitfield are DISMISSED WITHOUT PREJUDICE for want of jurisdiction.
5. All claims raised in this lawsuit on behalf of K.L.W. are DISMISSED WITH PREJUDICE for want of jurisdiction.
6. Any and all pending motions are DENIED AS MOOT.

Signed at Houston, Texas on April 24, 2019.



Gray H. Miller
Senior United States District Judge